

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

RONALD JUNIOR HANEY,)	
)	
Petitioner,)	
)	
-vs-)	Case No. CIV-07-466 -F
)	
MIKE ADDISON,)	
)	
Respondent.)	

ORDER

On September 18, 2007, United States Magistrate Judge Doyle W. Argo issued a Report and Recommendation, wherein he recommended that petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 be denied.

Presently before the court is petitioner's timely objection to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1), the court has conducted a de novo review of the matter. Having done so, the court agrees with the analysis and recommendation of Magistrate Judge Argo. The court concludes that petitioner's objection is without merit.¹ The court accepts, adopts, and affirms the Report and Recommendation.

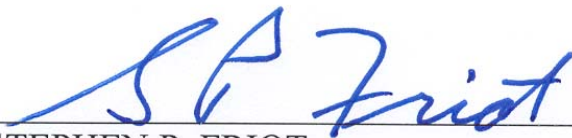
In his objection, petitioner reasserts his Motion for Request for Assistance/Appointment of Counsel for an Indigent Pro Se Petitioner, filed April 19, 2007 (doc. no. 4). "[T]here is no constitutional right to counsel beyond the appeal of a criminal conviction, and [] generally appointment of counsel in a § 2254 proceeding

¹ In his objection, petitioner challenges certain factual statements made in the Report and Recommendation. The court need not decide the validity of these challenges. The challenged factual statements do not in any manner affect the analysis and recommendation of Magistrate Judge Argo.

is left to the court's discretion." Swazo v. Wyo. Dep't of Corr., 23 F.3d 332, 333 (10th Cir. 1994). "However, there is a right to counsel in a habeas case when the district court determines that an evidentiary hearing is required." *Id.* In the Report and Recommendation, Magistrate Judge Argo concluded that the court should deny petitioner's request for an evidentiary hearing. He specifically found that petitioner had not demonstrated that he diligently pursued the factual development of his claims in state court. Petitioner has not specifically objected to this finding. Notwithstanding this failure, the court concurs with Magistrate Judge Argo's finding and concludes that no evidentiary hearing is warranted. Further, the court declines to exercise its discretion to appoint counsel for petitioner. The court concludes that petitioner has capably articulated and presented his objection to the Report and Recommendation. In the court's view, the legal issues presented by petitioner's objection are not complex. Furthermore, the court has rejected the merits of the objection. The court therefore concludes that petitioner's motion should be denied.

Accordingly, the Report and Recommendation issued by United States Magistrate Judge Doyle W. Argo on September 18, 2007 (doc. no. 16) is **ACCEPTED, ADOPTED, and AFFIRMED**. Petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 is **DENIED**. Petitioner's request for an evidentiary hearing is **DENIED**. Petitioner's renewal of his Motion for Request for Assistance/Appointment of Counsel for an Indigent Pro Se Petitioner, filed April 19, 2007 (doc. no. 4), is **DENIED**.

DATED October 26, 2007.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE